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A Limited Liability Partnership Including Professional Corporations

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Amy L. Van de Kerckhove
202 663 8076
amy.van.de.kerckhove@shawpittman.com

January 20, 2004

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VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth St., S.W., TW-A325
Washington, D.C. 20554

JAN 20 2004

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: Amendment of Section 73.202(b) Table of Allotments
FM Broadcast Station at Idaho Falls, ID
MB Docket No. 02-289, RM-10526**

Dear Ms. Dortch:

On behalf of Sand Hill Media Corporation ("Sand Hill"), the licensee of KQEO(FM), Idaho Falls, Idaho, this letter is being submitted in response to a request by FCC staff that Sand Hill clarify the consideration paid to Scott D. Parker, the petitioner in the above-referenced rulemaking (the "Idaho Falls Rulemaking").

As the Commission is aware, on November 18, 2002, Sand Hill submitted Comments and Counterproposal in the Idaho Falls Rulemaking to request that the Commission not allot new Channel 300C1 at Idaho Falls, as requested by Scott Parker, but instead modify the facilities of KQEO by specifying operation on Channel 299C1 in lieu of its current Channel 296C1, and change its city of license from Idaho Falls to Iona, Idaho. Because Sand Hill's proposal is shortspaced with Scott Parker's rulemaking request, Sand Hill agreed with Mr. Parker that he would withdraw his expression of interest in the new allocation. As explained in its Comments and Counterproposal, Sand Hill agreed to reimburse Mr. Parker solely for his expenses incurred in the preparation of his petition.

Section 1.420 of the Commission's Rules states that a party cannot pay the party withdrawing its expression of interest in an FM Table of allotment rulemaking proceeding money or other consideration in excess of the legitimate and prudent expenses of the party withdrawing its expression of interest. Sand Hill and Mr. Parker fully complied with this restriction. Specifically, on November 18, 2002, Mr. Parker withdrew his expression of interest for the allotment of Channel 300C1 to Idaho Falls, and as required by Section 1.420(j) of the Commission's Rules, provided an itemized accounting

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of the expenses for which it sought reimbursement, a declaration stating that he had not received any money or other consideration in excess of legitimate and prudent expenses in exchange for the withdrawal of the expression of interest, and a copy of the associated agreement with Sand Hill.

On November 25, 2002, Sand Hill, as required by Section 1.420(j)(5) of the Commission's Rules, filed the Declaration of Ryan G. Frandsen, the President of Sand Hill, certifying that Sand Hill only agreed to pay Mr. Parker the "legitimate and prudent expenses incurred in the preparation and prosecution of his petition for Rulemaking." No additional consideration is being paid to Mr. Parker in connection with the Idaho Falls Rulemaking.

As the parties disclosed to the Commission, Sand Hill separately agreed to pay Alpine Broadcasting Limited Partnership ("Alpine"), an entity of which Mr. Parker is the sole general partner, consideration for reducing the proposed power of KYZK(FM), Sun Valley, Idaho. A copy of that agreement, as requested by the Commission, is attached. This power reduction has allowed Sand Hill to file an FCC Form 301 minor modification application with the FCC to increase the power of KQEO at a specific transmitter site desired for use by Sand Hill. See FCC File No. BPH-20030204ADR. The consideration paid to Alpine in connection with the KQEO power increase is separate and unrelated to the consideration paid to Mr. Parker in connection with the withdrawal of his expression of interest in the Idaho Falls Rulemaking, and accordingly does not violate Section 1.420 of the FCC's rules. In a similar case, in East Lost Angeles, Long Beach, and Frazier Park, California, 13 FCC Rcd 4692 (March 6, 1998), the Commission granted Antelope Broadcasting's request to withdraw its Petition in connection with an FM allotment proceeding, in which it also disclosed to the Commission that it had entered into a separate Mutual Facilities Increase Agreement with the other party to the proceeding, which provided for separate reimbursements in connection with its agreement to modify the facilities of its station.

As demonstrated, the consideration paid by Sand Hill in connection with the Idaho Falls Rulemaking is consistent with all of the Commission's rules, regulations, and policies. Sand Hill has asked that the Commission process its pending modification application, which would allow it to immediately increase facilities. In any event, both its application and rulemaking requests are fully consistent with Commission policy, and should be granted expeditiously.

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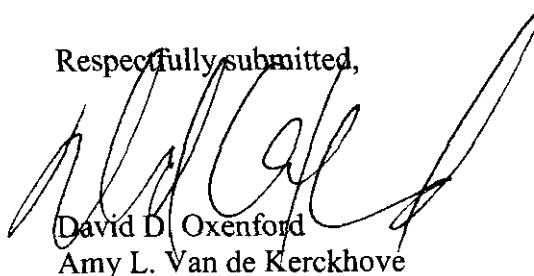
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Should there be any questions concerning this matter, please contact either of the undersigned.

Respectfully submitted,

A large, stylized handwritten signature in black ink, likely belonging to David D. Oxenford, is written over the typed name.

David D. Oxenford

Amy L. Van de Kerckhove

cc: Sharon P. McDonald
Dale Bickel
Andrew Rhodes, Esq.
Richard A. Helmick, Esq

AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into this ____ day of November, 2002, by and between Sand Hill Media Corporation, an Idaho corporation ("Sand Hill"), and Alpine Broadcasting Limited Partnership, an Idaho limited partnership ("Alpine").

WHEREAS, Alpine is the licensee of station KYZK(FM), Sun Valley, Idaho, operating on Channel 298A, and currently has pending before the Federal Communications Commission ("FCC") an FCC Form 301 application for minor modification of the licensed facilities of KYZK (FCC File No. BPH-20020318ABI) to upgrade the station from Class A to Class C (the "KYZK Upgrade Application");

WHEREAS, Sand Hill is the permittee of station KQEO(FM), Idaho Falls, Idaho, operating on Channel 296 and desires to increase power operation of its station by seeking a higher class allotment for KQEO (the "KQEO Upgrade");

WHEREAS, the KQEO Upgrade cannot be granted if the KYZK Upgrade Application is on file;

WHEREAS, Alpine desires to accommodate the KQEO Upgrade by amending the KYZK Upgrade Application in accordance with the terms set forth herein; and

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Amendment of KYZK Upgrade Application.** Alpine agrees to amend the KYZK Upgrade Application to reduce the level of power proposed therein (the "Amendment"), such that the resulting upgrade would no longer preclude the grant of the KQEO Upgrade. Alpine will file the Amendment within five (5) business days of its receipt of the engineering study for the Amendment or by November 18, 2002, whichever date is earlier, to be prepared by Sand Hill and provided to Alpine at no cost.

2. **KQEO Upgrade Application.** Sand Hill will file an application on FCC Form 301 for FCC approval of the KQEO Upgrade or a rulemaking proposal for such change (the "KQEO Upgrade Application") no later than November 18, 2002.

3. **Consideration.** Sand Hill agrees to pay to Alpine, as consideration for Alpine's filing of the Amendment, the following consideration:

3.1. The amount of FIFTY THOUSAND DOLLARS (\$50,000), to be delivered to Alpine within ten business (10) days after the execution of this Agreement, by wire transfer of immediately available funds. This payment will be refunded to Sand Hill in the event that the KQEO Upgrade is (i) denied by the FCC, or (ii) is not granted by the FCC within two (2) years of the date hereof and Sand Hill, in its sole discretion, elects to terminate this Agreement at any time thereafter. Such repayment obligation will be evidenced by a Promissory Note (the

"Note") in the form of Exhibit A hereto, executed by Alpine and delivered to Sand Hill concurrently with the execution of this Agreement. If the approval of the KQEO Upgrade becomes a Final Order (as defined herein), the repayment obligation will cease, and Sand Hill will return the Note to Alpine, and mark such Note "cancelled."

3.2. The amount of FIFTY THOUSAND DOLLARS (\$50,000), to be delivered to Alpine within ten (10) business days of the FCC's grants of both the KYZK Upgrade Application, as amended in accordance with the provisions hereof, and the KQEO Upgrade Application having become Final Orders (as defined herein).

4 **Final Order** The obligation of Sand Hill to make any payment under Section 3.2 hereof is expressly conditioned upon both of the KYZK and KQEO Upgrade Applications becoming "Final Orders." For purposes of this Agreement, an action by the FCC approving each Upgrade Application shall be a "Final Order" when construction permits covering the proposed changes to both KYZK and KQEO have been granted by the FCC, and the time for filing any requests for administrative or judicial review of such action ("such action" to include any related action including any required rulemaking proceeding), or for the FCC to reconsider such action on its own motion, has lapsed without any such filing or motion having been filed or, in the event of any such filing or motion, it shall have been disposed of in a manner so as not to affect the validity of the action taken, and the time for seeking further administrative or judicial review with respect to the action shall have expired without any request for such further review having been filed.

5. **Further Assurances**. Each party hereto agrees to cooperate with any request of the other party to take such actions as are necessary, including to coordinate the submission of any related filings with the FCC pursuant to Section 73.3525 of the FCC's rules, to effectuate the purposes and intent of this Agreement.

6. **Assignment**. Neither party may assign its rights, interests and obligations under this Agreement, in whole or in part, without the prior written consent of the other party, provided however, that should Alpine assign or transfer KYZK during the term of this Agreement, Alpine agrees that, as a condition of such assignment, the assignee or transferee of KYZK shall be obligated to be bound by the terms of this Agreement.

7. **Entire Agreement**. This Agreement sets forth the entire understanding of the parties hereto at the time of execution and delivery thereof with respect to the subject matter hereof and may not be amended except by written amendment signed by both parties. All prior agreements between the parties with respect to the subject matter hereof shall be of no further force or effect.

8. **Authorization and Binding Obligation**. The parties hereto represent to one another that they each have the power and authority to enter into and carry out this Agreement and that this Agreement constitutes a valid and binding obligation of each of them in accordance with its terms

9. **Specific Performance**. In the event that Alpine fails to perform its obligation to consummate the transaction contemplated hereby, money damages alone will not be adequate to

compensate Sand Hill for its injury. Therefore, Alpine agrees and acknowledges that in the event of Alpine's failure to perform its obligation to consummate the transaction contemplated hereby, Sand Hill shall be entitled, in addition to any other rights and remedies on account of such failure, to specific performance of the terms of this Agreement and of Alpine's obligation to consummate the transaction contemplated hereby. If any action is brought by Sand Hill to enforce this Agreement, Alpine shall waive the defense that there is an adequate remedy at law, and Sand Hill shall be entitled to receive from Alpine all court costs, attorney's fees and other out-of-pocket expenses incurred by Sand Hill in enforcing its rights under this provision.

10. **Counterparts** This agreement may be signed in counterparts with the same effect as if the signature on each counterpart were on the same instrument.

11. **Governing Law**. This Agreement shall be governed by and construed according to the laws of the State of Idaho, specifically excluding its choice of law provisions.

12. **Notices**. All notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be deemed duly given on the next business day if sent by facsimile or overnight delivery, and on the fifth (5th) business day if sent by registered or certified mail, postage prepaid, addressed as follows:

If to Sand Hill. P.O. Box 507
 Logan, Utah 84321
 Attn: Ryan G. Frandsen, President

With a copy (which shall not constitute notice) to:

David D. Oxenford, Esq.
Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037-1128

If to Alpine: Alpine Broadcasting Limited Partnership
 P.O. Box 2158
 Ketchum, ID 83340
 Attn: Scott D. Parker, General Partner

with a copy to: Richard A. Helmick, Esq.
 Cohn and Marks LLP
 1920 N Street, NW, Suite 300
 Washington, DC 20036


or any such other addresses as the parties may from time to time designate in writing.

13. **Attorney's Fees**. In the event of a dispute between the parties to this Agreement, Sand Hill or Alpine, as the case may be, shall reimburse the prevailing party for its reasonable legal fees and other costs incurred in enforcing its rights or exercising its remedies under this

Agreement. Such right of reimbursement shall be in addition to any other right or remedy that the prevailing party may have under this Agreement

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**ALPINE BROADCASTING LIMITED
PARTNERSHIP**

By 

Scott D. Parker
General Partner

SAND HILL MEDIA CORPORATION

By _____
Ryan G. Frandsen
President


Agreement. Such right of reimbursement shall be in addition to any other right or remedy that the prevailing party may have under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**ALPINE BROADCASTING LIMITED
PARTNERSHIP**

By: _____
Scott D. Parker
General Partner

SAND HILL MEDIA CORPORATION

By:  _____
Ryan G. Frandsen
President